

REMARKS

Claims 1-15 are pending and the Examiner has required election of one of 10 allegedly distinct Groups.

Applicants provisionally elect Group II, with traverse.

In support of the restriction, the Examiner asserts that the claims of the instant § 371 application do not share a novel special technical feature and, therefore, unity of invention is not present. (Restriction Requirement, paragraph 4). In particular, it was asserted that U.S. Patent No. 5,474,796 (hereinafter “Brennan”) discloses the array of claim 2. *Id.* In addition, it was also asserted, based on MPEP Annex B that that the International Searching Authority determined that unity of invention was present without identifying Brennan. (Restriction Requirement, paragraph 6).

In fact, the Examiner’s assertion that Brennan discloses an array as set forth in claim 2 is untenable. Claim 2 requires that the array comprise a plurality of sequences, wherein the sequences correspond to accessible regions of cellular chromatin. Brennan is completely silent as to arrays made up of sequence of accessible regions. Rather, Brennan relates to methods for treating glass substrates so that oligonucleotide sequences may be more readily attached to these surfaces. There is nothing in Brennan regarding attaching oligonucleotide sequences that are isolated based on their accessibility in cellular chromatin, as claimed. Accordingly, Brennan does not in any way describe, disclose or demonstrate the arrays of claim 2.

Applicants also traverse the Examiner’s assertion that restriction is proper in the instant application under the provisions of MPEP Annex B. This provision applies when references are not identified by the International Searching Authority (ISA) when preparing the International Search Report (ISR). In the instant case, the ISA clearly identified Brennan in their search and determined that this reference was not a novelty-destroying reference. (See, attached ISR finding unity of invention and citing Brennan as a “Y” reference). Thus, as determined by the ISA, claims 1-15 share a special technical feature (arrays of sequences of accessible regions of cellular chromatin) that is novel over Brennan. Hence, unity of invention is present and the Restriction Requirement should be withdrawn.

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Applicants expressly reserve their right to petition the Restriction Requirement if it is made FINAL. Furthermore, if the Restriction Requirement is maintained, Applicants reserve the right to rejoinder of method claims depending from the elected composition claims and also reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

Respectfully submitted,

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